

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10578 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

REKHABEN I.SHARMA

Versus

CHAIRMAN AND CHIEF DIST HEALTHOFFICER

Appearance:

1. Special Civil Application No. 10578 of 1993
MR JV JAPPEE for Petitioner.
MR BP TANNA for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2
Mr. L.R. Poojari, AGP for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 01/04/2004

ORAL JUDGEMENT

The petitioner, who was called for training for the post of Female Health Worker by order dated 8.9.1993, has preferred the present Special Civil Application under

Article 226 of the Constitution of India for quashing and setting aside the impugned decision of the respondents to cancel her admission to training course. (It is pertinent to note that there is no decision placed by the petitioner on record by which it can be said that there is any decision of the respondents to cancel admission of the petitioner to the training course).

2. Pursuant to advertisement inviting applications for training certificate for the post of Female Health Worker, the petitioner had applied and the petitioner was called for interview and ultimately by order dated 8.9.1993 the petitioner was appointed for training for the post of Female Health Worker. It is the case of petitioner that as she was apprehending that her admission for training for the post of Female Health Worker would be cancelled on the basis of some complaints made by other candidates who were not selected, had approached the authority and submitted that though the petitioner did not belong to Khedbrahma Taluka there was irregularity committed in giving the admission and therefore the present Special Civil Application came to be filed.

3. While admitting the present Special Civil Application on 8.10.1993, this Court (Coram: S.D. Dave, J.) admitted the present Special Civil Application and granted ad-interim relief restraining the respondents from cancelling admission of the petitioner to the "Training Course" and further interim relief was granted directing the respondents to permit the petitioner to continue in study in the "Training Course". That it is submitted that pursuant to the interim relief passed by this Court, the petitioner had already completed the Training Course and has also got the Certificate for completion of the Training Course. However, no further appointment to the post of Female Health Worker is given to the petitioner. It is the contention of the petitioner that in fact she belongs to Khedbrahma Taluka and for that she has also produced certain documentary evidence in support of her case and therefore she was rightly given admission for Training Course for the post of Female Health Worker.

4. On the other hand, Ms. Maru Keraula, learned advocate appearing on behalf of the respondents has submitted that an affidavit-in-reply has been filed on behalf of the respondents in which it is stated that a preliminary enquiry was conducted by the department in which and it has been found that the petitioner was not belonging to Khedbrahma Taluka and after publishing

advertisement inviting applications she had managed to get Ration Card for her and therefore it has been found that as such the certificate which has been issued in favour of the petitioner for completion of the Training Course for the post of Female Health Worker is required to be cancelled, as the same was pursuant to the interim order passed by this Court. She also further makes a statement that on the basis of preliminary enquiry conducted by the respondents, a Report has been submitted to the Commissioner, Health & Family Welfare, State of Gujarat, Ahmedabad on 19.3.1997 and now the competent authority, i.e., Secretary, Health & Family Welfare Department, respondent No.3 is to take a final decision.

5. Mr. Poojari, learned AGP appearing on behalf of respondent No.3 submits that before taking a final decision with regard to completion of training the petitioner will be given an opportunity of being heard and thereafter final decision will be taken. In view of the aforesaid statement, Mr. Japee, learned advocate appearing for the petitioner requests for withdrawal of the present petition. It is, however, made clear that this Court has not gone into the merits of the case with regard to the contentions of the petitioner that she was permanent resident of Khedbrahma Taluka, nor this Court has considered the submissions on behalf of the respondents that she was not belonging to Khedbrahma Taluka. It is ultimately for the competent authorities to take a decision on the basis of the materials available before them. It is also made clear that though pursuant to the interim order passed by this Court the post and the petitioner has completed the training course post, the petitioner has completed the training course and the petitioner has been awarded the Certificate, as the present Special Civil Application is being disposed of as withdrawn, it is made clear that the said Certificate with regard to completion of the training course would be ultimately subject to final decision that may be taken by the competent authority which will be taken after affording opportunity of being heard to the petitioner. In this view of the matter, the present Special Civil Application is disposed of as withdrawn. Interim relief stands vacated. No order as to costs.

rmr. [M.R. Shah, J.]